

07 C 6669

JUDGE KENDALL
MAGISTRATE JUDGE MASON

Exhibit A

DECLARATION

Jason Gibson declares:

1. I am a duly commissioned Special Agent employed by the Internal Revenue Service Criminal Investigation of the Chicago Field Office post-of-duty located at 2001 Butterfield Road, Suite 1205, Downers Grove, Illinois, 60515.
2. In my capacity as a Special Agent, I am conducting an investigation into the tax liability of Fajerstein Diamond Importers & Cutters, Inc., for the taxable years ended December 31, 2000, 2001, 2002, 2003, 2004, and 2005.
3. In furtherance of the above referenced investigation and in accordance with section 7602 of Title 26, U.S.C., on March 26, 2007, I issued an administrative summons, Internal Revenue Service Form 2039, to Ronald M. Fajerstein, responsible officer and sole shareholder of Fajerstein Diamond Importers & Cutters, Inc., to give testimony and produce for examination books, papers, records, and other data as described in said summons. The summons is attached to the petition as Exhibit B.
4. In accordance with section 7603 of Title 26, U.S.C., on March 26, 2007, I served an attested copy of the Internal Revenue Summons, described in paragraph 3 above, on respondent Fajerstein by personal service at 67 East Madison, Suite 1730, Chicago, Illinois, 60603, as evidenced in the certificate of service on the reverse side of the summons.

Exhibit A

5. On Friday, April 6, 2007, Mr. William F. Marutzky, legal counsel for respondent Fajerstein and Fajerstein Diamond Importers & Cutters, Inc., faxed me a letter identifying himself as the attorney of record and stating that the taxpayer required additional time to locate and assemble the summonsed documents and would not be able to meet the April 9, 2007 production date. The letter is attached to the petition as Exhibit C.

6. On Monday, April 9, 2007, respondent Fajerstein did not appear in response to the summons. The respondent's failure to comply with the summons continues to the date of this declaration.

7. On Monday, April 9, 2007, I called Mr. Marutzky, who indicated he would speak with his client regarding production of the summonsed documents and would call me back toward the end of the week.

8. On Friday, April 13, 2007, I called Mr. Marutzky to inquire about the status of the summonsed documents. Mr. Marutzky stated that he anticipated producing the summonsed documents in PDF format by Wednesday, April 18, 2007.

9. No documents were produced on April 18, 2007, nor did I hear from Mr. Marutzky or respondent Fajerstein.

10. I left voice messages for Mr. Marutzky on May 8 and May 15, 2007; neither call was returned.

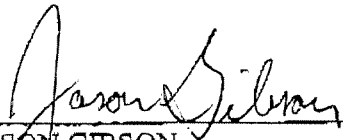
11. The books, records, papers, and other data sought by the summons are not already in the possession of the Internal Revenue Service.

12. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

13. It is necessary to examine the books, records, papers, and other data sought by the summons in order to properly investigate the federal tax liability of Fajerstein Diamond Importers & Cutters, Inc., for the taxable years ended December 21, 2000, 2001, 2002, 2003, 2004, and 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of November, 2007.



JASON GIBSON
Special Agent, IRS

Exhibit B



Summons

In the matter of Ronald Fajerstein, 201 N Westshore, Apt. 2901, Chicago, IL 60601

Internal Revenue Service (Division): Criminal Investigation

Industry/Area (name or number): Chicago

Periods: 2000, 2001, 2002, 2003, 2004, 2005

The Commissioner of Internal Revenue

To: Fajerstein Diamond Importers & Cutters, Inc.

At: 67 E Madison, Suite 1730, Chicago, IL 60603

You are hereby summoned and required to appear before Special Agent Jason Gibson and/or his designee
an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

SEE ATTACHED

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

2001 Butterfield Road, Esplanade Building, Suite 1205, Downers Grove, IL 60515 Phone: 630/493-5225

Place and time for appearance at 2001 Butterfield Road, Esplanade Building, Suite 1205, Downers Grove, IL 60515



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 12-2001)
Catalog Number 21405J

on the 9th day of April 2007 at 9 o'clock a m.

Issued under authority of the Internal Revenue Code this 36th day of March 2007
(year) (year)

Jason Gibson
Signature of issuing officer

Special Agent
Title

Signature of approving officer (if applicable)

Title

Original — to be kept by IRS



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

| | | | |
|------|-----------|------|--------|
| Date | 5/26/2007 | Time | 1:00pm |
|------|-----------|------|--------|

**How
Summons
Was
Served**

1. ☒ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☐ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): _____
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: _____
67 E Madison, Suite 1730, Chicago, IL 60603

| | | | |
|-----------|--------------|-------|---------------|
| Signature | Jason Gibson | Title | Special Agent |
|-----------|--------------|-------|---------------|

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: _____ Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

**How
Notice
Was
Given**

- | | |
|---|---|
| <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee. | <input type="checkbox"/> I gave notice by handing it to the noticee. |
| <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any): _____ | <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summoned. |
| | <input checked="" type="checkbox"/> No notice is required. |

| | | | |
|-----------|--------------|-------|---------------|
| Signature | Jason Gibson | Title | Special Agent |
|-----------|--------------|-------|---------------|

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

| | | | |
|-----------|--------------|-------|---------------|
| Signature | Jason Gibson | Title | Special Agent |
|-----------|--------------|-------|---------------|

ATTACHMENT TO SUMMONS ISSUED TO: Fajerstein Diamond Importers & Cutters
FOR THE YEARS: 2000 - 2005

All corporate records and books of account relative to the financial transactions of:
Fajerstein Diamond Importers and Cutters, 67 E Madison, Ste 1730, Chicago, IL
60603

To include but not limited to:

ALL CORPORATE BOOKKEEPING RECORDS and other financial records including General Ledger, General Journals, all Subsidiary Ledgers and Journals, Gross Receipts and income records, Cash Receipts and Disbursement records and/or Journals, sales and Purchase records and/or Journals, Accounts Receivable and Payable Ledgers and records, Bad Debt records, Cost of Goods Sold records, Loan Receivable and Payable Ledgers, Voucher Register and all sales and expense invoices including all invoices documenting expenses paid by cash (currency) or bank check (cashier or teller checks) and retained copies of any bank checks (cashier or teller checks.)

Inventory records establishing beginning and ending inventories including inventory sheets, work-papers, and valuation records. Records and work-papers reflecting the purchase, basis and depreciable life of assets. Records and work-papers of sales of corporate assets such records disclosing the dates of purchase and sale, cost and sales price, records establishing or adjusting asset basis.

Corporate Minute Book, Stock Register or other records reflecting ownership of corporate stock. All financial statements, bookkeeper's and/or accountant's workpapers used in the preparation of corporate records or tax returns. Retained copies of all federal and state income, payroll and excise tax returns.

SAVINGS ACCOUNT RECORDS: Including passbooks or bank statements, records reflecting dates and amounts of deposits, withdrawals, interest, debit and credit memos, deposit slips, records reflecting the identity of checks deposited, withdrawal slips, and records disclosing the disposition of withdrawals, Forms 1099, debit and credit memos. Records of any certificates of deposit, money market certificates, U.S. Treasury Notes or Bills purchased.

CHECKING ACCOUNT RECORDS: Including bank statements, deposit slips, records revealing the identity of checks drawn on the account, checks deposited, all debit and credit memos, and Forms 1099 issued.

LOAN RECORDS: Including applications, financial statements, loan collateral, credit and background investigations required, loan agreements, notes or mortgages, settlement sheets, contracts, retained copies of checks issued for loans, repayment records, including records revealing the date, amount and method of repayment (cash

or check), checks used to repay loans and a record disclosing the total amount of discount or interest paid annually, records of any liens, loans correspondence files and internal memoranda relative to these loans.

RECORD FORMAT: In addition to hard copies, records are requested in the form of electronic media. Data may be provided on a 3 1/2 inch diskette or compact disk.

Exhibit C

11/19/2007 15:54 6304935241

CI DOWNERS GROVE

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04/06/2007 00:55 FAX 3125801884

GHSPRD, LTD

002/010

WILLIAM F. MARUTZKY

ATTORNEY AT LAW

SUITE 4000
70 WEST MADISON STREET
CHICAGO, ILLINOIS 60602-4252TELEPHONE 312.604.2600
FAX 312.602.3818
WMarutzky@aol.com

April 6, 2007

Special Agent Jason Gibson
Internal Revenue Service
Suite 1205
2001 Butterfield Road
Downers Grove, Illinois 60515By Fax: (630) 493-5243
And
By MailIn Re: Power of Attorney
Ronald M. Fajenstein
Social Security Number 326-40-4537

Dear Special Agent Gibson:

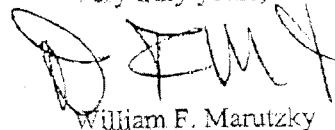
I have been engaged to represent the above captioned taxpayer regarding the examination being conducted by the Internal Revenue Service. To authorize my representation, enclosed you will find an executed copy of IRS form 2848- Power of Attorney.

I will be representing the taxpayer to respond to the summons you issued to him calling for him to appear and produce documents at your office on April 9, 2007 at 10:00 A.M.

The taxpayer is in the process of assembling the documents responsive to your summons. However, the taxpayer will not be able to respond with production on April 9th. The taxpayer requires additional time to locate and assemble the data.

Would you call me upon receipt of this letter so we can discuss the situation.

Very truly yours,


William F. MarutzkyWFM/rw
Enclosure

11/19/2007 15:54 6304935241

CI DOWNERS GROVE

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04/06/2007 00:55 FAX 3125801994

GHSPRD.LTD

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Form 2848

(Rev. March 2004)
Department of the Treasury
Internal Revenue Service**Power of Attorney
and Declaration of Representative**

Type or print. See the separate instructions.

OMB No. 1545-0150

For IRS Use Only

Received by:

Name

Telephone

Function

Date

Part 1 Power of Attorney

Caution: Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer(s) must sign and date this form on page 2, line 9.

Taxpayer name(s) and address

Ronald Fajerstein
Suite 1730
67 East Madison Street
Chicago, IL 60603

Social security number(s)

326-40-4537

Employer identification
number

Plan number (if applicable)

Daytime telephone number

312-346-3342

heraby appoint(s) the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address

William F. Marutzky
Suite 4000
70 West Madison Street
Chicago, Illinois 60602

CAF No.

Telephone No. 312-604-2600

Fax No. 312-602-3818

Check if new: Address ☐ Telephone No. ☐ FAX No. ☐

CAF No.

Telephone No.

Fax No.

Check if new: Address ☐ Telephone No. ☐ FAX No. ☐

CAF No.

Telephone No.

Fax No.

Check if new: Address ☐ Telephone No. ☐ FAX No. ☐

Name and address

do represent the taxpayer(s) before the Internal Revenue Service for the following tax matters:

3 Tax matters

| Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty (See the instructions for line 3) | Tax Form Number (1040, 941, 720, etc.) | Year(s) or Period(s) (see the instructions for line 3) |
|--|---|---|
| Income | 1040 | 2000, 2001, 2002 |
| Income | 1040 | 2003, 2004, 2005 |

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for Line 4. Specific uses not recorded on CAF. ☐

5 Acts authorized. The representatives are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The authority does not include the power to receive refund checks (see line 6 below), the power to substitute another representative, the power to sign certain returns, or the power to execute a request for disclosure of tax returns or return information to a third party. See the line 5 instructions for more information.

Exceptions. An unenrolled return preparer cannot sign any document for a taxpayer and may only represent taxpayers in limited situations. See **Unenrolled Return Preparer** on page 2 of the instructions. An enrolled actuary may only represent taxpayers to the extent provided in section 10.3(d) of Circular 230. See the line 5 instructions for restrictions on tax matters partners.

List any specific additions or deletions to the acts otherwise authorized in this power of attorney:

6 Receipt of refund checks. If you want to authorize a representative named on line 2 to receive, **BUT NOT TO ENDORSE OR CASH**, refund checks, initial here _____ and list the name of that representative below.

Name of representative to receive refund check(s) _____
or Privacy Act and Paperwork Reduction Notice, see page 4 of the instructions.

Form 2848 (Rev. 3-2004)

Form 2846 (Rev. 3-2004)

Page 2

7 **Notices and communications.** Original notices and other written communications will be sent to you and a copy to the first representative listed on line 2.

a If you also want the second representative listed to receive a copy of notices and communications, check this box ☐

b If you do not want any notices or communications sent to your representative(s), check this box ☐

8 **Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same tax matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here ☐

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

9 **Signature of taxpayer(s).** If a tax matter concerns a joint return, both husband and wife must sign if joint representation is requested, otherwise, see the instructions. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

► IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED.

Signature Ronald M. Fajerstein Date April 05, 2007 Title (if applicable) _____

Ronald M. Fajerstein

Print Name

☐ ☐ ☐ ☐ ☐

PIN Number

Print name of taxpayer from line 1 if other than individual

Signature

Date

Title (if applicable)

Print Name

PIN Number

Part II Declaration of Representative

Caution: Students with a special order to represent taxpayers in Qualified Low Income Taxpayer Clinics or the Student Tax Clinic Program, see the instructions for Part II.

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Treasury Department Circular No. 230 (31 CFR, Part 10), as amended, concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;
- I am authorized to represent the taxpayer(s) identified in Part I for the tax matter(s) specified there; and
- I am one of the following:
 - a Attorney - a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b Certified Public Accountant - duly qualified to practice as a certified public accountant in the jurisdiction shown below.
 - c Enrolled Agent - enrolled as an agent under the requirements of Treasury Department Circular No. 230.
 - d Officer - a bona fide officer of the taxpayer's organization.
 - e Full-Time Employee - a full-time employee of the taxpayer.
 - f Family Member - a member of the taxpayer's immediate family (i.e., spouse, parent, child, brother, or sister).
 - g Enrolled Actuary - enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Service is limited by section 10.3(d) of Treasury Department Circular No. 230).
 - h Unenrolled Return Preparer - the authority to practice before the Internal Revenue Service is limited by Treasury Department Circular No. 230, section 10.7(c)(1)(viii). You must have prepared the return in question and the return must be under examination by the IRS. See Unenrolled Return Preparer on page 2 of the instructions.

► IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED. See the Part II instructions.

| Designation - Insert above letter (a-h) | Jurisdiction (state) or identification | Signature | Date |
|---|--|--------------------|------------|
| a | Illinois | <u>[Signature]</u> | 03/28/2007 |
| | | | |
| | | | |